

**Delaware Health Resources Board
Meeting Minutes
Thursday, October 22, 2015 2:30 PM
DelDOT Administration Building
Farmington/Felton Conference Rooms
800 Bay Road
Dover, Delaware 19901**

Board Members Present:

Jill Rogers, Acting Chair; Lynn Fahey; Leighann Hinkle; Dave Hollen; Vincent Lobo, MD; William Love; Mark Thompson; Yrene Waldron; John Walsh; and Gina Ward.

Board Members Absent: Suzanne Raab-Long; Bettina Riveros; and Harold Stafford.

Staff Present: Marlyn Marvel; Joanna Suder; and Latoya Wright.

Call to Order and Welcome:

Acting Chair, Jill Rogers, welcomed the Board members and called the meeting to order at 2:30 p.m.

August 27, 2015 Meeting Minutes:

Lynn Fahey made a motion to approve the August 27, 2015 Delaware Health Resources Board meeting minutes. Bill Love seconded the motion. There was a voice vote, from which Jill Rogers and Mark Thompson abstained. Motion carried.

Updates

Post Acute Medical LLC Presentation

Ms. Rogers stated that Post Acute Medical LLC submitted an application on August 27, 2015 to construct an inpatient rehabilitation facility center in Dover with an estimated capital expenditure of \$14.6 million. The application was deemed complete on September 17, 2015. The public notice was posted in the newspapers on September 22, 2015.

Several requests were received for a public hearing from the following entities: Capital Nursing and Rehab Center, Courtland Manor, Bayhealth and Potter Anderson Corroon LLP, a firm that represents HealthSouth. The date and location for the hearing will be forthcoming and all parties will be notified.

The Board will need to make a decision on this application by the December 17, 2015 Health Resources Board meeting and the applicant will be notified by January 20, 2016.

The representatives from Post Acute Medical LLC presented their proposal to the Board. A copy of the presentation is posted on the Health Resources Board website at <http://dhss.delaware.gov/dhss/dhcc/hrb/meetingpresentation.html>.

Post Acute Medical plans to build a 34 bed inpatient and outpatient rehabilitation hospital. It will be a freestanding facility, with all private rooms, featuring advanced therapy technology. It will be located on the campus of Eden Hill Medical Center in Dover.

Inpatient rehabilitation facilities are licensed hospitals intended for patients who need intense daily rehabilitation with an average length of stay between 8 and 13 days. They typically treat persons with strokes, neurological disorders, spinal cord and traumatic brain injuries, joint replacements, hip fractures, and other orthopedic trauma.

Currently Dover residents must travel 20 miles outside of Dover for inpatient rehabilitation facility services. Nothing out of state is closer. Other post-acute services such as skilled, home care, and outpatient therapy are the only options currently available.

Post Acute is prepared to begin development upon the Certificate of Public Review approval with a proposed opening date of January 2018.

Discussion

Ms. Rogers stated that Delaware has done quite a bit of work to change its delivery system to prepare for the two payment models that are forth coming. She is interested in any experience Post Acute Medical has in other markets in total cost of care environments and what they anticipate the impact of the significant uptake will be, especially in the Medicare population and Medicare shared savings programs. She asked how they operate in those environments and what their experience has been.

Lisa Maclean stated that they operate in several markets, especially with the Medicare shared savings programs and they have a joint venture relationship in Austin, Texas with the Seton System. They also do commercial Accountable Care Organization products and all of the bundling. Austin will be the new Comprehensive Care Joint Replacement Model. They are very familiar with working in all of that.

Ms. Maclean just pulled the latest information on what Delaware's three counties look like with the geographic variation in spending for Medicare. Kent, Sussex and New Castle Counties are primarily very much the same and Delaware is very much in line with the rest of the country. Kent County is slightly lower than the others but they look at every market they enter to see how they could be impacted. There is very little difference between the cost of the stay in the rehabilitation hospital versus the skilled nursing facility. The skilled nursing facility stay is much longer than an inpatient rehabilitation facility stay. When they look at the total cost of care, the primary thing they look at is where the additional cost comes in. It primarily comes from readmissions. Any readmission can cost several thousand to \$16,000 per patient. Ms. Maclean pulled the readmissions percentages for Kent County regional hospitals. The skilled nursing facilities in that area run somewhere between 20 plus percent, which is high considering the number of patients that are in skilled nursing facilities. This data is from 2012 and 2013. That is considerably high compared to an inpatient rehabilitation facility which is between 8 and 10 percent. Since inpatient rehabilitation facilities are so much smaller in the number of patients they have compared to a skilled nursing facility, when they look at the number of patients that go through a skilled nursing facility they are very large. A lot of money can be saved by controlling the readmissions.

Ms. Rogers asked for clarification that Post Acute Medical's application is for an inpatient hospital, as opposed to a skilled nursing facility. Ms. Maclean stated that is correct.

Ms. Rogers asked the Board members for volunteers to serve on a Review Committee for the Post Acute Medical application. The Committee will report back to the Board at the December meeting.

Gina Ward and Dave Hollen volunteered to serve on the committee. The staff will reach out to the Board members who were absent from the meeting for a third volunteer. A public hearing will also be scheduled.

Delaware Outpatient Surgery Center Charity Care Report for 2014

Ms. Rogers stated that, at the August Health Resources Board meeting, the Board reviewed the 2014 Charity Care Report received from the Delaware Outpatient Surgery Center. The report showed the facility did not meet the 2 percent charity care requirement and the Board made a motion to request an explanation for not meeting the threshold. The Delaware Outpatient Surgery Center has submitted a letter of explanation which was distributed to the Board.

They stated that they have not met the requirement because of the number of people who are now insured due to the Affordable Care Act. There are a relatively low number of uninsured people and the challenge that they see with their patient population is that there are larger out of pocket coinsurance and deductible costs.

Ms. Rogers stated that the Board may need to rethink the charity care policy in light of the Affordable Care Act. This is a challenge that is not unique to this surgery center. The Board needs to determine what to do now that there are fewer people who are uninsured.

Mr. Love stated that he thinks it is a good idea to rethink the charity care policy because 2 percent is a difficult number to achieve with the impact of the Affordable Care Act.

Ms. Rogers suggested asking the staff to specifically look at any flexibility that might exist around the deductibles and coinsurance. They need to look at the requirements that providers have through their agreements with third party payors and where there might be flexibility.

Mr. Walsh stated that he agrees that this needs to be revisited with the higher copayments, coinsurance and deductibles.

The Board agreed not to take any action on whether or not this was an acceptable explanation and defer further discussion until they have a better understanding of where there might be opportunities.

Action

SUN Behavioral Health CPR Application

John Walsh recused himself and left the room.

Ms. Rogers stated that SUN Behavioral submitted a CPR application to construct a 90 bed psychiatric hospital in Georgetown. Public meetings were held on August 25, 2015, September 29, 2015 and October 15, 2015. The review committee members were Bill Love, who chaired the committee, John Walsh and Mark Thompson. The Final Draft Report was submitted to the Board for review.

Mr. Love provided a summary of the Certificate of Public Review Report to the Delaware Health Resources Board.

SUN Behavioral Delaware, a subsidiary of a national behavioral health company, proposes to build a 90 bed psychiatric hospital with related assessment and outpatient services in Georgetown. Services will address a number of behavioral related needs across all ages with units designed to accommodate special programming, including substance abuse, faith based needs, exclusively women programs, geriatric specialties and adolescent.

As part of the Committee's review process a public hearing was held in Georgetown. The hearing was attended by a large number of people. A number of speakers gave presentations. The speakers represented area hospitals, provider organizations, families with personal experience trying to access behavioral health services in Sussex County, advocates for improved mental health services, and members of Delaware's General Assembly. Many support the proposal based on the need for the increased behavioral health services. There were also concerns expressed about the size of the proposed hospital and the ability of the applicant to recruit sufficient staffing. A full transcript of the public hearing was provided to members of the Health Resources Board.

There are a number of issues that were considered by the Review Committee in reviewing the proposal of this size and potential impact on the community. Mr. Love highlighted three that were interwoven throughout many of the seven criteria considered as part of the review.

The first is the large need for improved behavioral health services in Sussex County with a much larger capacity needed than currently exists. This is something that is well documented and discussed in past meetings of the Health Resources Board.

The second issue is Delaware's commitment to build the capacity of community based services throughout the state in compliance with a settlement agreement made with the Federal Department of Justice in response to a civil rights complaint which was settled in 2010. The Committee is sensitive to the importance of not violating this agreement.

The third issue is the size of the project and the question of why a 90 bed hospital, versus one of a smaller size.

Mr. Love went through each criterion, briefly summarizing the Committee's finding.

Criterion I: The relationship of the proposal to the Health Resources Management Plan.

Although the Health Resources Management Plan does not specifically address the need for acute care psychiatric inpatient services, the Committee did review data on occupancy rates, rates of existing hospitals, population statistics, data on growing mental health needs and the existence of alternative resources.

Based on this review the Committee found that the application meets criterion one by a unanimous vote.

Action

Dr. Vincent Lobo made a motion to approve the Review Committee's recommendation on criterion one. Gina Ward seconded the motion. There was a voice vote. Motion carried.

Criterion II: The need of the population for the proposed project.

There is clearly a need for additional capacity in behavioral health services in Sussex County as indicated not only by the data, but by the personal experiences of residents who attempt to access services. There are no short term acute psychiatric hospitals in Sussex County. The closest alternative is a 60 minute drive for many and that alternative has experienced high utilization rates. This is a tremendous barrier for the community in not only accessing needed services but also creates a hardship for families who want to stay involved with the treatment of their family member.

Sussex County continues to experience a high rate of population increase which will lead to further demand for behavioral health services. There are more military veterans in the county with unique behavioral health needs, and more seniors in need of services specific to the geriatric population.

The lack of sufficient capacity impacts not only families in need of services, but puts a tremendous burden on hospital emergency rooms and on law enforcement agencies required to transport clients that require mental health treatment. Testimony also mentioned that the criminal justice system is not an effective way to be dealing with the mentally ill population.

Testimony at the hearing referenced the State of Delaware and U.S. Department of Justice's settlement as it would relate to the newly proposed facility. As a result of an investigation of the Delaware Psychiatric Center, Delaware entered a settlement agreement with the Department of Justice to expand community mental health services to prevent unnecessary institutionalization. The target population as defined by the Department of Justice is individuals with severe and persistent mental illness who are receiving state funded services. The goal of the settlement is to prevent unnecessary institutionalization of individuals in violation of the Americans with Disabilities Act. Some of the services provided by this project will be State funded via the Medicaid program. Testimony provided by the State Division of Substance Abuse and Mental Health (DSAMH) at a hearing supported individuals having appropriate access to all levels of mental health treatment, including short term inpatient services when needed.

The Review Committee has proposed two conditions for the Board's consideration that will help ensure compliance of the proposed services with the settlement agreement.

The Review Committee found that the application meets criterion two by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion two. Dave Hollen seconded the motion. There was a voice vote. Motion carried.

Criterion III: The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State of Delaware.

As discussed earlier in detail in the Committee's report, data and testimony indicate the need for additional behavioral health services in Sussex County. The hospital will provide a much needed service and will be integrated into the existing system of services. The Committee is confident that the applicant's compliance with the proposed conditions will reduce the risk of unnecessary

hospitalization and facilitate the use of community based services which will reduce the risk of readmission and enable people in need of services to remain stable in their own community.

The Review Committee found that the application meets criterion three by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion three. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

Criterion IV: The relationship of the proposal to the existing health care delivery system.

It is SUN Behavioral Health's belief that the community will see improvements in terms of capacity to treat medical emergencies at acute care hospitals and mental health emergencies close to home. SUN has met with hospitals and behavioral health providers in the area and proposes to integrate their services within the existing delivery system. SUN's assessment in outpatient services will improve the existing continuum of care and will better ensure patients receive services in the least restrictive setting specific to their needs, which is the goal of the State settlement agreement.

The Review Committee found that the application meets Criterion IV by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion four. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

Criterion V: The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources.

As stated during the Report's discussion and in SUN's proposal the company has the financing to construct the hospital and develop the planned services and recruitment plan to acquire the needed staff, including psychiatrists.

The Review Committee found that the application meets criterion five by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion five. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

Criterion VI: The anticipated effect of the proposal on the costs of and charges for health care.

The application notes that, based on the projected cost models, the provision of services described in the proposal can be provided at the same or lower costs that are currently available from other providers in Delaware. The proposal projects revenue will exceed expenses in the second year of operation, which is projected to be 2018. The Review Committee requested additional clarification on some of the financial documents submitted and after review found that the application meets criterion six by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion six. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

Criterion VII: The anticipated effect of the proposal on the quality of health care.

The facility will be accredited by the Joint Commission which the applicant has received in previous hospitals it opened. The facility will accommodate specialty programming for a variety of populations, including the geriatric population, adults, adolescents and children. The approval of the application with the condition to enforce collaboration with the Division of Substance Abuse and Mental Health, and remaining in compliance with the Department of Justice settlement agreement will also contribute to the quality of health care.

The Review Committee found that the application meets criterion seven by a unanimous vote.

Action

Dr. Lobo made a motion to approve the Review Committee's recommendation on criterion seven. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

In summary the Review Committee recommends approval of the Certificate of Public Review application submitted by SUN Behavioral Health with four conditions.

The first condition requires policies and practices that prevent the unnecessary admission of individuals who do not need the level of service provided in an inpatient setting.

The second condition requires SUN to ensure a discharge plan is in place for all individuals discharged to ensure appropriate follow up care and reduce the risk of readmission.

The first two conditions are related to the State settlement agreement.

The third condition is the Board's standard charity care condition of 2 percent.

The fourth condition is to ensure SUN's participation in the DHIN (Delaware Health Information Network).

SUN has agreed to the first, second and fourth conditions as worded. They have proposed revision to the wording of the third condition, which is the charity care provision. It is basically the same issue that was discussed earlier around 2 percent as a threshold, given the Affordable Care Act.

Ms. Rogers clarified that the proposed alternative language from SUN includes 2 percent as a guideline, rather than a requirement.

Action

Mr. Love made a motion to approve the application with conditions one, two and four as originally recommended by the Committee and condition three as amended by the applicant. Mr. Hollen seconded the motion. There was a voice vote. Motion carried.

Upcoming Items Before the Board

Mr. Walsh rejoined the meeting.

Nemours Purchase PET MRI Scanner CPR Application

Ms. Rogers stated that Nemours submitted an application on August 27, 2015 to purchase a PET MRI scanner, with an estimated capital expenditure of \$ 5.5 million. The application was deemed complete on October 15, 2015. The public notice was posted on October 22, 2015. A decision will need to be made at the December 17, 2015 Health Resources Board meeting if no public hearing is requested. If a public hearing is requested, a decision will need to be made by the January 28, 2016 meeting. The representatives are invited to present their proposal at the November 19, 2015 Health Resources Board meeting and a Review Committee will be selected.

Christiana Care Women's and Children's Services CPR Application

Ms. Rogers stated that Christiana Care submitted an application on October 1, 2015 for a transformation project for the Christiana Care Women and Children's services, with an estimated capital expenditure of \$258 Million. The application was deemed complete on October 22, 2015. The public notice will be posted on October 29, 2015. A decision must be made by December 17, 2015 Health Resources Board meeting if no public hearing is requested. A decision must be made by the January 28, 2016 meeting if a public hearing is requested. They will be invited to present their proposal at the November 19, 2015 Health Resources Board meeting.

Cedar Tree Surgery Center CPR Application

Ms. Rogers stated that Cedar Tree submitted an application on October 9, 2015 to request a relief from the restriction to not administer general anesthesia as stated in their initial CPR approved dated October 23, 1998. They requested this relief in writing from the Board in June 2014, however the Board reviewed the information submitted and determined a full CPR application is required. The application will be determined complete or incomplete by October 30, 2015. The public notice will be posted by November 6, 2015. If the application is deemed complete they will be invited to present their proposal to the Board at the November 19, 2015 Health Resources Board meeting. A decision will be made by the January 28, 2016 Health Resources Board meeting if no public hearing is requested. A decision must be made by the February 25, 2016 Health Resources Board meeting if public hearing is requested.

NOI Bayhealth Milford

Ms. Rogers stated that Bayhealth submitted a Notice of Intent on September 4, 2015 to construct a replacement hospital in Milford, with an estimated capital expenditure \$268 million. The staff is awaiting the application.

Other Business

Genesis/Eden Hill Case

Joanna Suder stated that the Genesis/Eden Hill case was appealed to the Supreme Court. It was scheduled for an oral argument on October 14, 2015, but that has been continued and will probably happen sometime in December.

Public Comment

Sean Mace, of Eden Hill Medical Center, stated that they fully support the Post Acute Medical facility on the Eden Hill Medical Center Campus. They think this is going to be a tremendous asset to the community, not only from an economic development standpoint, but from a community need.

Next Meeting

The next Health Resources Board meeting will be held in the Farmington/Felton Conference Rooms on the first floor of the Department of Transportation Administration Building, 800 Bay Road, Dover on Thursday, November 19, 2015 at 2:30 p.m.

Adjourn

Mr. Love made a motion that the meeting be adjourned. Mark Thompson seconded the motion. There was a voice vote. Motion carried.

The meeting adjourned at 3:30 p.m.

Guests Attending

Heidi Bowie
Jennifer Brady
Michelle Clark
Jean Constant
Lisa Goodman
Doug Gramiak
Bobbi Hicks
Will Holding
Jim Lafferty
Maddy Lauria
Sean Mace
Lisa Maclean
Harris S. Marx
Bill Mason
Edwardo Medeiros
Nathan Millman
Tony Misitano
Sam Noel
Steve Page
Dean Pletz
Mary Ann Poling
John Raver
John J. Rhodes
Jen Rini
Thomas Riggs
Julie Saville
Sandy Schurman
Karick Stober
Lean Thompson
Rob Tribeck

Post Acute Medical
Observer
Bayhealth Medical Center
UHS, Inc.
Young Conaway Public Strategies
Young Conaway Public Strategies
Post Acute Medical
Post Acute Medical
Mental Health Association
Cape Gazette
Eden Hill Medical Center
Post Acute Medical
SUN Behavioral Health
Meadowwood Behavioral Health Services
SUN Behavioral Health
C Manor
Post Acute Medical
Rep Carpenters 626
SUN Behavioral Health

Westminster Village/PSL
Post Acute Medical
Christiana Care
News Journal
UHS
Meadowwood Behavioral Health Services
C Manor
Post Acute Medical

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